



DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-SACN-32920;PPMWMWROW2/PMP00UP05.YP0000]

RIN 1024-AE64

St. Croix National Scenic Riverway, Bicycling

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service amends the special regulations for St. Croix National Scenic Riverway to allow bicycle use on a 0.25-mile connector trail across National Park Service land near Cable, Wisconsin. The new trail will provide direct access to the Riverway and new recreational opportunities within the Riverway and on the Chequamegon Area Mountain Bike Association trail network in Bayfield County, Wisconsin. National Park Service regulations require promulgation of a special regulation to designate new trails for bicycle use off park roads and outside of developed areas.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Docket:* For access to the docket to read comments received, go to www.regulations.gov and search for Docket ID: NPS-2021-0002.

Document Availability: The Cable Connector Trail Environmental Assessment, Finding of No Significant Impact, and Written Determination provide information and context for this rule and are available online at <https://parkplanning.nps.gov/sacn> by clicking the link entitled “Cable Connector Trail” and then clicking the link entitled “Document List.”

FOR FURTHER INFORMATION CONTACT: Lisa Yager, Chief of Resource Stewardship and Education, St. Croix National Scenic Riverway; (715) 483-2290; Lisa_Yager@nps.gov.

SUPPLEMENTARY INFORMATION:

Background.

The Namekagon and St. Croix Rivers flow through some of the most scenic and least developed country in the Upper Midwest. The free-flowing character and exceptional water quality of these waterways serve as a unique ecological corridor in northwest Wisconsin and eastern Minnesota that sustains a diversity of aquatic and terrestrial wildlife and habitats.

In 1968, to preserve, protect, and enhance this unique national resource for the benefit and enjoyment of present and future generations, Congress established the St. Croix National Scenic Riverway, a 230-mile long protected area that includes the Namekagon River, as one of the original eight rivers protected under the national Wild and Scenic Rivers Act. In 1972, the Lower St. Croix National Scenic Riverway was added to the National Wild and Scenic Rivers System. Together, these areas form the Riverway.

Today, the rivers continue to flow unimpeded for considerable distances as they have for millennia, through the river corridor, growing and changing in character from their headwaters to the St. Croix's confluence with the Mississippi. The Riverway offers exceptional recreational opportunities for visitors to paddle, boat, camp, hike, fish, explore, and find solitude in a natural setting close to the major metropolitan area of Minneapolis-Saint Paul. The National Park Service (NPS) and state partners work with local communities to maintain the aquatic, cultural, recreational, riparian, scenic— aesthetic, and geologic values of the rivers for the benefit and enjoyment of more than 600,000 annual visitors.

Cable Connector Trail Environmental Assessment.

In October 2021, the NPS began construction on a 0.25-mile connector trail through the Riverway near Cable, Wisconsin. The trail is designed for hiking, trail running, and bicycle and electric bicycle (e-bike) use, and silent sports in the winter such as fat-tire bicycling, snowshoeing, and cross-country skiing. Equestrian and other motorized use will not be allowed. It will be the first trail at the Riverway open to bicycle use. Construction of the trail responds to a specific opportunity identified by the NPS and local partners to create a link across public land to provide direct access to the Riverway and new recreational opportunities within the Riverway and on the Chequamegon Area Mountain Bike Association (CAMBA) trail network in Bayfield County, Wisconsin. The trail will be built from the end of a segment of CAMBA's Wild River Trail on a former railroad grade near the Town of Cable, connecting to Parker Road. The trail will provide a critical link to adjoining trails and would serve an important role providing connectivity for several local trail running and biking events that start or finish in the Cable area. The bare soil trail will be built using sustainable trail construction techniques to protect natural and cultural resources. The trail will utilize landforms and natural features exhibiting the natural beauty of the area and would feature a slight crown, shallow grades, open sight lines, and gentle turns to support user safety, provide adequate drainage to minimize braiding, seasonal muddiness, and erosion, and reduce the overall maintenance costs associated with more complex trail features. Signage will clearly indicate allowed uses on the trail.

On September 22, 2020, the NPS published the Cable Connector Trail Environmental Assessment (EA). The EA describes one action alternative (the preferred alternative) and the no-action alternative. Under the preferred alternative, the NPS would construct the 0.25 mile Cable Connector Trail to accommodate bicycle and e-bike use. The EA evaluates (1) the suitability of the Cable Connector Trail for bicycle and e-bike use; and (2) life cycle maintenance costs, safety considerations, methods to prevent or

minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle and e-bike use on the trail. The EA contains a full description of the purpose and need for taking action, the alternatives considered, a map of the affected area, and the environmental impacts associated with the project. After a public review period, on February 1, 2021, the Regional Director for DOI Unified Regions 3, 4 and 5 (Great Lakes) signed a Finding of No Significant Impact (FONSI) that identified the preferred alternative in the EA as the selected alternative. On November 11, 2021, the Regional Director signed a Written Determination that bicycle use on the new trail is consistent with the protection of the Riverway's natural, scenic, and aesthetic values, safety considerations and management objectives, and that it will not disturb wildlife or park resources. The EA, FONSI, and Written Determination may be viewed on the Riverway's planning website at <https://parkplanning.nps.gov/sacn> by clicking the link entitled "Cable Connector Trail" and then clicking the link entitled "Document List."

Summary of Public Comments.

The NPS published a proposed rule in the Federal Register on July 16, 2021 (86 FR 37725). The NPS accepted public comments on the proposed rule for 60 days via the mail, hand delivery, and the Federal eRulemaking Portal at <https://www.regulations.gov>. Comments were accepted through September 14, 2021. The NPS received 55 comments on the proposed rule. All of the comments supported bicycle use on the new trail. Below is a summary of one pertinent issue that was raised by a commenter and the response from the NPS. After considering the public comments and after additional review, the NPS did not make any changes to the rule other than adding an affirmative statement that a violation of any condition, closure, limit, or restriction on bicycle use implemented by the superintendent is prohibited.

Comment: One commenter objected to the use of electric bicycles on the trail.

NPS Response: Similar to traditional bicycles, the NPS believes that, with proper management, the use of electric bicycles (e-bikes) may be an appropriate activity in some park areas. The EA considered the potential for benefits and adverse impacts to resources and visitors and the FONSI determined that impacts of the action, including the use of e-bikes on the new Cable Connector Trail, will not be significant. The FONSI concluded that environmental impacts that could occur will be limited in context and intensity, with general beneficial impacts to visitor use and experience, and possible minor effects on northern long-eared bat (*Myotis septentrionalis*). The FONSI concluded that there will be no unmitigated adverse impacts on these or other resources or values of the Riverway.

NPS regulations at 36 CFR 4.30(i) give superintendents the discretionary authority to allow e-bikes on park roads, parking areas, and administrative roads and trails that are otherwise open to bicycles. After the Cable Connector Trail is constructed and ready for bicycle use, the superintendent of the Riverway will designate the trail as open to bicycles by providing notice in accordance with 36 CFR 1.7. This includes a requirement to list the trail as open to bicycles in the park compendium, which is available on the park website at www.nps.gov/sacn. At that time, the superintendent also may designate the trail as open to e-bikes. If, in the future, the superintendent determines that e-bikes or certain classes of e-bikes should no longer be allowed on the trail, or that conditions for use should change, the superintendent can make such changes by updating the park compendium and providing adequate public notice under 36 CFR 1.7.

Final Rule.

This rule implements the selected alternative in the FONSI and authorizes the superintendent to designate the new Cable Connector Trail for traditional bicycle use. This action complies with NPS regulations 36 CFR 4.30, which require a special regulation to designate new bicycle trails that require construction activities off park roads and outside of developed areas. This rule adds a new paragraph (g) to 36 CFR 7.9,

which contains the special regulations for the Riverway. After the trail is constructed, the rule requires the superintendent to notify the public prior to designating the trail for bicycle use through one or more of the methods listed in 36 CFR 1.7, and identify the designation on maps available at Riverway visitor centers and posted on the Riverway's website (www.nps.gov/sacn). The rule also authorizes the superintendent to establish closures, conditions, or restrictions for bicycle use on the trail after considering public health and safety, resource protection, and other management activities and objectives.

Bicycle use will not be authorized by the superintendent until the NPS completes the process required by NPS regulations at 36 CFR 4.30, including the preparation of a written determination that bicycle use on the new trail is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. As explained in the response to comment above, when the superintendent opens the trail to traditional bicycles, the superintendent also may open the trail to e-bikes, or specific classes of e-bikes. This rule will not affect the use of any existing trails in the Riverway, all of which remain closed to bicycles and e-bikes.

The rule also revises the section heading from "St. Croix National Scenic Rivers" to "St. Croix National Scenic Riverway." This change is consistent with the commonly used and official name of the Riverway.

Compliance with Other Laws, Executive Orders and Department Policy.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rulemaking is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while

calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

This rulemaking would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This certification is based on information contained in the economic analyses found in the report entitled “Cost-Benefit and Regulatory Flexibility Threshold Analyses: Final Rule to Designate a New Trail Connection for Bicycle Use at St. Croix National Scenic Riverway.” The report may be viewed on the Riverway's planning website at <https://parkplanning.nps.gov/sacn> by clicking the link entitled “Cable Connector Trail” and then clicking the link entitled “Document List.”

Congressional Review Act (CRA)

This rulemaking is not a major rule under 5 U.S.C. 804(2). This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rulemaking does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects use of federally-administered lands and waters. It has no direct effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rulemaking complies with the requirements of Executive Order 12988. This rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-

government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rulemaking under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. Nevertheless, in support of the Department of the Interior and NPS commitment for government-to-government consultation, during the EA process, the NPS shared information about the proposed action with 18 federally recognized American Indian Tribes and invited them to consult on the project. None of the 18 Tribes expressed interest in consultation.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The NPS has prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because of the FONSI. A copy of the EA and FONSI can be found online at <https://parkplanning.nps.gov/sacn> by clicking the link entitled "Cable Connector Trail" and then clicking the link entitled "Document List."

Effects on the Energy Supply (Executive Order 13211)

This rulemaking is not a significant energy action under the definition in Executive Order 13211; the rule is not likely to have a significant adverse effect on the

supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A Statement of Energy Effects is not required.

List of Subjects in 36 CFR Part 7

National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Amend § 7.9 by revising the section heading and adding paragraph (g) to read as follows:

§ 7.9 St. Croix National Scenic Riverway.

* * * * *

(g) *Bicycle Use.* (1) The Superintendent may designate all or a portion of the Cable Connector Trail (full length of the trail approximately 0.25 miles) as open to bicycle use.

(2) A map showing trails open to bicycle use will be available at Riverway visitor centers and posted on the Riverway website. The Superintendent will provide notice of all trails designated for bicycle use in accordance with § 1.7 of this chapter.

(3) The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions

in accordance with § 4.30 of this chapter. A violation of any such condition, closure, limit, or restriction is prohibited.

Shannon A. Estenoz,
Assistant Secretary for Fish and Wildlife and Parks.

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